

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1264 be amended to read as follows:

1 Page 3, between lines 18 and 19, begin a new paragraph and insert:
2 "SECTION 3. IC 9-30-5-4, AS AMENDED BY P.L.175-2001,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2004]: Sec. 4. (a) A person who causes serious bodily injury
5 to another person when operating a motor vehicle:
6 (1) with an alcohol concentration equivalent to at least
7 eight-hundredths (0.08) gram of alcohol per:
8 (A) one hundred (100) milliliters of the person's blood; or
9 (B) two hundred ten (210) liters of the person's breath;
10 (2) with a controlled substance listed in schedule I or II of
11 IC 35-48-2 or its metabolite in the person's body; or
12 (3) while intoxicated;
13 commits a Class D felony. However, the offense is a Class C felony if
14 **the person has a previous conviction of operating while intoxicated**
15 within the five (5) years preceding the commission of the offense. ~~the~~
16 ~~person had a prior unrelated conviction under this chapter.~~
17 (b) A person who violates subsection (a) commits a separate offense
18 for each person whose serious bodily injury is caused by the violation
19 of subsection (a).
20 (c) It is a defense under subsection (a)(2) that the accused person
21 consumed the controlled substance under a valid prescription or order
22 of a practitioner (as defined in IC 35-48-1) who acted in the course of
23 the practitioner's professional practice.
24 SECTION 4. IC 9-30-5-5, AS AMENDED BY P.L.175-2001,
25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another
27 person when operating a motor vehicle:
28 (1) with an alcohol concentration equivalent to at least
29 eight-hundredths (0.08) gram of alcohol per:

- 1 (A) one hundred (100) milliliters of the person's blood; or
 2 (B) two hundred ten (210) liters of the person's breath;
 3 (2) with a controlled substance listed in schedule I or II of
 4 IC 35-48-2 or its metabolite in the person's body; or
 5 (3) while intoxicated;
 6 commits a Class C felony. However, the offense is a Class B felony if
 7 **the person has a previous conviction of operating while intoxicated**
 8 within the five (5) years preceding the commission of the offense. ~~the~~
 9 ~~person had a prior unrelated conviction under this chapter.~~
 10 (b) A person who violates subsection (a) commits a separate offense
 11 for each person whose death is caused by the violation of subsection
 12 (a).
 13 (c) It is a defense under subsection (a)(2) that the accused person
 14 consumed the controlled substance under a valid prescription or order
 15 of a practitioner (as defined in IC 35-48-1) who acted in the course of
 16 the practitioner's professional practice."
 17 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1264 as printed February 20, 2004.)

Senator BRODEN